

## SENATE BILL NO. 514

INTRODUCED BY ELLIOTT

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING CLASS FOURTEEN PROPERTY TO INCLUDE CLEAN GENERATION FACILITIES; PROVIDING A DEFINITION OF "CLEAN GENERATION FACILITIES" THAT INCLUDES THE REQUIREMENT THAT THE FACILITY BE LESS THAN 10 YEARS OLD; TAXING CLASS FOURTEEN PROPERTY AT 3 PERCENT OF ITS MARKET VALUE; ALLOWING A LOCAL GOVERNMENTAL UNIT TO ASSESS AN IMPACT FEE FOR LOCAL GOVERNMENTAL UNITS AND SCHOOL DISTRICTS THAT ARE IMPACTED BY THE CONSTRUCTION OF A COMMERCIAL CLEAN GENERATION FACILITY; ALLOWING INTERLOCAL IMPACT AGREEMENTS; AMENDING SECTIONS 15-1-101, 15-6-135, 15-6-137, 15-6-141, 15-6-156, 15-6-201, 15-24-3005, 15-24-3006, AND 15-24-3007, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND RETROACTIVE APPLICABILITY DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Class fourteen property -- description -- taxable percentage.** (1) Class fourteen property includes:

- (a) clean generation facilities of a centrally assessed electric power company;
- (b) clean generation facilities owned or operated by an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to section 32 of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79z-5a;
- (c) noncentrally assessed clean generation facilities owned or operated by any electrical energy producer;
- (d) clean generation facilities owned or operated by a cooperative rural electric association or a noncentrally assessed public utility;
- (e) clean generation facilities used for noncommercial purposes or exclusively for agricultural purposes;
- (f) clean generation facilities of a qualifying small power production facility, as that term is defined in 16 U.S.C. 796(17), that is owned and operated by a person not primarily engaged in the generation or sale of electricity other than electric power from a small power production facility.

(2) Class fourteen property does not include clean generation facilities that are exempt under 15-6-225.

(3) For the purposes of this section, "clean generation facilities" means any combination of a physically connected turbine or turbines, generators, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electrical energy from wind, solar energy, geothermal energy, fuel cells that do not require hydrocarbon fuel, or falling water and that are less than 10 years old based upon the time that electrical energy generation began.

(4) Class fourteen property is taxed at 3% of its market value.

**NEW SECTION. Section 2. Clean generation facility impact fee for local governmental units and school districts.** (1) An owner or operator of a clean generation facility, including the owner or operator of a qualifying small power production facility described in [section 1], that is used for a commercial purpose is subject to an initial local governmental and local school impact fee for the first 3 years after construction of the clean generation facility begins. The impact fee may not exceed 0.5% of the total cost of constructing the clean generation facility.

(2) (a) Subject to subsection (2)(b), the impact fee is assessed and distributed as provided in 15-24-3005(2) and (3).

(b) Local governmental units may enter into an interlocal agreement as provided in 15-24-3005(4).

(3) (a) For the purposes of this section, "clean generation facility" means any combination of a physically connected turbine or turbines, generators, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electrical energy from wind, solar energy, geothermal energy, fuel cells that do not require hydrocarbon fuel, or falling water.

(b) The term does not include a clean generation facility used for noncommercial purposes or exclusively for agricultural purposes.

**Section 3.** Section 15-1-101, MCA, is amended to read:

**"15-1-101. Definitions.** (1) Except as otherwise specifically provided, when terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

(a) The term "agricultural" refers to:

(i) the production of food, feed, and fiber commodities, livestock and poultry, bees, biological control insects, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or

1 produced for commercial purposes; and

2 (ii) the raising of domestic animals and wildlife in domestication or a captive environment.

3 (b) The term "assessed value" means the value of property as defined in 15-8-111.

4 (c) The term "average wholesale value" means the value to a dealer prior to reconditioning and the  
5 profit margin shown in national appraisal guides and manuals or the valuation schedules of the department.

6 (d) (i) The term "commercial", when used to describe property, means property used or owned by a  
7 business, a trade, or a corporation, as defined in 35-2-114, or used for the production of income, except property  
8 described in subsection (1)(d)(ii).

9 (ii) The following types of property are not commercial:

10 (A) agricultural lands;

11 (B) timberlands and forest lands;

12 (C) single-family residences and ancillary improvements and improvements necessary to the function  
13 of a bona fide farm, ranch, or stock operation;

14 (D) mobile homes and manufactured homes used exclusively as a residence except when held by a  
15 distributor or dealer as stock in trade; and

16 (E) all property described in 15-6-135 and clean generation facilities classified under [section 1] that are  
17 owned or operated by a cooperative rural electric association described in 15-6-135.

18 (e) The term "comparable property" means property that:

19 (i) has similar use, function, and utility;

20 (ii) is influenced by the same set of economic trends and physical, governmental, and social factors; and

21 (iii) has the potential of a similar highest and best use.

22 (f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

23 (g) (i) "Department", except as provided in subsection (1)(g)(ii), means the department of revenue  
24 provided for in 2-15-1301.

25 (ii) In chapters 70 and 71, department means the department of transportation provided for in 2-15-2501.

26 (h) The terms "gas" and "natural gas" are synonymous and mean gas as defined in 82-1-111(2). The  
27 terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other natural gas  
28 found in any coal formation.

29 (i) The term "improvements" includes all buildings, structures, fences, and improvements situated upon,  
30 erected upon, or affixed to land. When the department determines that the permanency of location of a mobile

home, manufactured home, or housetrailer has been established, the mobile home, manufactured home, or housetrailer is presumed to be an improvement to real property. A mobile home, manufactured home, or housetrailer may be determined to be permanently located only when it is attached to a foundation that cannot feasibly be relocated and only when the wheels are removed.

(j) The term "leasehold improvements" means improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification, and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on leasehold improvements are a lien only on the leasehold improvements.

(k) The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas, bison, ostriches, rheas, emus, and domestic ungulates.

(l) The term "manufactured home" means a residential dwelling built in a factory in accordance with the United States department of housing and urban development code and the federal Manufactured Home Construction and Safety Standards. A manufactured home does not include a mobile home, as defined in 61-1-501 and in subsection (1)(m) of this section, a housetrailer, as defined in 61-1-501, or a mobile home or housetrailer constructed before the federal Manufactured Home Construction and Safety Standards went into effect on June 15, 1976.

(m) The term "mobile home" means forms of housing known as "trailers", "housetrailers", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any trailer, housetrailer, or trailer coach up to 8 feet in width or 45 feet in length used as a principal residence.

(n) The term "personal property" includes everything that is the subject of ownership but that is not included within the meaning of the terms "real estate" and "improvements" and "intangible personal property" as that term is defined in 15-6-218.

(o) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

(p) The term "property" includes money, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition may not be construed to authorize the taxation of the stocks of a company or corporation when the property of the company or corporation represented by the stocks is within the state and has been taxed.

(q) The term "real estate" includes:

- 1 (i) the possession of, claim to, ownership of, or right to the possession of land;
- 2 (ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and
- 3 Title 15, chapter 23, part 8;
- 4 (iii) all timber belonging to individuals or corporations growing or being on the lands of the United States;
- 5 and
- 6 (iv) all rights and privileges appertaining to mines, minerals, quarries, and timber.
- 7 (r) "Recreational" means hunting, fishing, swimming, boating, waterskiing, camping, biking, hiking, and
- 8 winter sports, including but not limited to skiing, skating, and snowmobiling.
- 9 (s) "Research and development firm" means an entity incorporated under the laws of this state or a
- 10 foreign corporation authorized to do business in this state whose principal purpose is to engage in theoretical
- 11 analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific
- 12 and technical nature into practical application for experimental and demonstration purposes, including the
- 13 experimental production and testing of models, devices, equipment, materials, and processes.
- 14 (t) The term "stock in trade" means any mobile home, manufactured home, or housetrailer that is listed
- 15 by the dealer as inventory and that is offered for sale, is unoccupied, and is not located on a permanent
- 16 foundation. Inventory does not have to be located at the business location of a dealer or a distributor.
- 17 (u) The term "taxable value" means the percentage of market or assessed value as provided for in Title
- 18 15, chapter 6, part 1.
- 19 (2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city,
- 20 incorporated town, township, school district, irrigation district, or drainage district or a person, persons, or
- 21 organized body authorized by law to establish tax levies for the purpose of raising public revenue.
- 22 (3) The term "state board" or "board" when used without other qualification means the state tax appeal
- 23 board."
- 24

25 **Section 4.** Section 15-6-135, MCA, is amended to read:

26 **"15-6-135. Class five property -- description -- taxable percentage.** (1) Class five property includes:

- 27 (a) all property, except clean generation facilities classified under [section 1], used and owned by
- 28 cooperative rural ~~electrical~~ electric associations and cooperative rural telephone associations organized under
- 29 the laws of Montana, except property owned by cooperative organizations described in 15-6-137(1)(a);
- 30 (b) air and water pollution control equipment as defined in this section;

1 (c) new industrial property as defined in this section;

2 (d) any personal or real property used primarily in the production of gasohol during construction and  
3 for the first 3 years of its operation;

4 (e) all land and improvements and all personal property owned by a research and development firm,  
5 provided that the property is actively devoted to research and development;

6 (f) machinery and equipment used in electrolytic reduction facilities;

7 (g) all property used and owned by persons, firms, corporations, or other organizations that are engaged  
8 in the business of furnishing telecommunications services exclusively to rural areas or to rural areas and cities  
9 and towns of 1,200 permanent residents or less.

10 (2) (a) "Air and water pollution control equipment" means that portion of identifiable property, facilities,  
11 machinery, devices, or equipment designed, constructed, under construction, or operated for removing,  
12 disposing, abating, treating, eliminating, destroying, neutralizing, stabilizing, rendering inert, storing, or  
13 preventing the creation of air or water pollutants that, except for the use of the item, would be released to the  
14 environment. Reduction in pollutants obtained through operational techniques without specific facilities,  
15 machinery, devices, or equipment is not eligible for certification under this section.

16 (b) Requests for certification must be made on forms available from the department of revenue.  
17 Certification may not be granted unless the applicant is in substantial compliance with all applicable rules, laws,  
18 orders, or permit conditions. Certification remains in effect only as long as substantial compliance continues.

19 (c) The department of environmental quality shall promulgate rules specifying procedures, including  
20 timeframes for certification application, and definitions necessary to identify air and water pollution control  
21 equipment for certification and compliance. The department of revenue shall promulgate rules pertaining to the  
22 valuation of qualifying air and water pollution control equipment. The department of environmental quality shall  
23 identify and track compliance in the use of certified air and water pollution control equipment and report  
24 continuous acts or patterns of noncompliance at a facility to the department of revenue. Casual or isolated  
25 incidents of noncompliance at a facility do not affect certification.

26 (d) A person may appeal the certification, classification, and valuation of the property to the state tax  
27 appeal board. Appeals on the property certification must name the department of environmental quality as the  
28 respondent, and appeals on the classification or valuation of the equipment must name the department of  
29 revenue as the respondent.

30 (3) (a) "New industrial property" means any new industrial plant, including land, buildings, machinery,

1 and fixtures, used by new industries during the first 3 years of their operation. The property may not have been  
2 assessed within the state of Montana prior to July 1, 1961.

3 (b) New industrial property does not include:

4 (i) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades,  
5 or professions unless the business or profession meets the requirements of subsection (4)(b)(v);

6 (ii) a plant that will create adverse impact on existing state, county, or municipal services; or

7 (iii) property used or employed in an industrial plant that has been in operation in this state for 3 years  
8 or longer.

9 (4) (a) "New industry" means any person, corporation, firm, partnership, association, or other group that  
10 establishes a new plant in Montana for the operation of a new industrial endeavor, as distinguished from a mere  
11 expansion, reorganization, or merger of an existing industry.

12 (b) New industry includes only those industries that:

13 (i) manufacture, mill, mine, produce, process, or fabricate materials;

14 (ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state  
15 are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial  
16 products or materials;

17 (iii) engage in the mechanical or chemical transformation of materials or substances into new products  
18 in the manner defined as manufacturing in the North American Industry Classification System Manual prepared  
19 by the United States office of management and budget;

20 (iv) engage in the transportation, warehousing, or distribution of commercial products or materials if 50%  
21 or more of an industry's gross sales or receipts are earned from outside the state; or

22 (v) earn 50% or more of their annual gross income from out-of-state sales.

23 (5) Class five property is taxed at 3% of its market value."  
24

25 **Section 5.** Section 15-6-137, MCA, is amended to read:

26 **"15-6-137. Class seven property -- description -- taxable percentage.** (1) ~~Class~~ Except as provided  
27 in subsection (2), class seven property includes:

28 (a) all property owned by cooperative rural ~~electrical~~ electric associations that serve less than 95% of  
29 the electricity consumers within the incorporated limits of a city or town, except rural electric cooperative  
30 properties described in 15-6-141(1)(a);

(b) electric transformers and meters; electric light and power substation machinery; natural gas measuring and regulating station equipment, meters, and compressor station machinery owned by noncentrally assessed public utilities; and tools used in the repair and maintenance of this property.

(2) Class seven property does not include clean generation facilities classified under [section 1].

~~(2)~~(3) Class seven property is taxed at 8% of its market value."

**Section 6.** Section 15-6-141, MCA, is amended to read:

**"15-6-141. Class nine property -- description -- taxable percentage.** (1) Class nine property includes:

(a) centrally assessed allocations of an electric power company or centrally assessed allocations of an electric power company that owns or operates transmission or distribution facilities or both, including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by a public agency created by the congress to transmit or distribute electrical energy produced at privately owned generating facilities, not including rural electric cooperatives. However, rural electric cooperatives' property, except clean generation facilities classified under [section 1], used for the sole purpose of serving customers representing less than 95% of the electric consumers located within the incorporated limits of a city or town of more than 3,500 persons in which a centrally assessed electric power company also owns property or serving an incorporated municipality with a population that is greater than 3,500 persons formerly served by a public utility that after January 1, 1998, received service from the facilities of an electric cooperative is included. For purposes of this subsection (1)(a), "property used for the sole purpose" does not include a headquarters, office, shop, or other similar facility.

(b) allocations for centrally assessed natural gas companies having a major distribution system in this state; and

(c) centrally assessed companies' allocations except:

(i) electrical generation facilities ~~included in class thirteen~~ classified under 15-6-156 and clean generation facilities classified under [section 1];

(ii) property owned by cooperative rural electric associations and cooperative rural telephone associations and classified ~~in class five~~ under 15-6-135 or [section 1];

(iii) property owned by organizations providing telephone communications to rural areas and classified ~~in class five~~ under 15-6-135;

(iv) railroad transportation property ~~included in class twelve~~ classified under 15-6-145;



(v) airline transportation property ~~included in class twelve~~ classified under 15-6-145; and

(vi) telecommunications property ~~included in class thirteen~~ classified under 15-6-156.

(2) Class nine property is taxed at 12% of market value."

**Section 7.** Section 15-6-156, MCA, is amended to read:

**"15-6-156. Class thirteen property -- description -- taxable percentage.** (1) Except as provided in subsections (2)(a) through (2)(g), class thirteen property includes:

(a) electrical generation facilities, except clean generation facilities classified under [section 1], of a centrally assessed electric power company;

(b) electrical generation facilities, except clean generation facilities classified under [section 1], owned or operated by an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to section 32 of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79z-5a;

(c) noncentrally assessed electrical generation facilities, except clean generation facilities classified under [section 1], owned or operated by any electrical energy producer; and

(d) allocations of centrally assessed telecommunications services companies.

(2) Class thirteen property does not include:

(a) property owned by cooperative rural electric cooperative associations classified under 15-6-135 or [section 1];

(b) property owned by cooperative rural electric cooperative associations classified under 15-6-137 or [section 1];

(c) allocations of electric power company property under 15-6-141;

(d) electrical generation facilities included in another class of property;

(e) property owned by cooperative rural telephone associations and classified ~~in class five under 15-6-135~~;

(f) property owned by organizations providing telecommunications services and classified ~~in class five under 15-6-135~~; and

(g) generation facilities that are exempt under 15-6-225.

(3) (a) For the purposes of this section, "electrical generation facilities" means any combination of a physically connected generator or generators, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce

1 electric power. The term includes but is not limited to generating facilities that produce electricity from coal-fired  
2 steam turbines, oil or gas turbines, or turbine generators that are driven by falling water.

3 (b) The term does not include electrical generation facilities used for noncommercial purposes or  
4 exclusively for agricultural purposes.

5 (c) The term also does not include a qualifying small power production facility, as that term is defined  
6 in 16 U.S.C. 796(17), that is owned and operated by a person not primarily engaged in the generation or sale  
7 of electricity other than electric power from a small power production facility and classified under 15-6-134 and  
8 15-6-138 or [section 1].

9 (4) Class thirteen property is taxed at 6% of its market value."  
10

11 **Section 8.** Section 15-6-201, MCA, is amended to read:

12 **"15-6-201. Exempt categories.** (1) The following categories of property are exempt from taxation:

13 (a) except as provided in 15-24-1203, the property of:

14 (i) the United States, except:

15 (A) if congress passes legislation that allows the state to tax property owned by the federal government  
16 or an agency created by congress; or

17 (B) as provided in 15-24-1103;

18 (ii) the state, counties, cities, towns, and school districts;

19 (iii) irrigation districts organized under the laws of Montana and not operating for profit;

20 (iv) municipal corporations;

21 (v) public libraries; and

22 (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

23 (b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a church  
24 and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably  
25 necessary for convenient use of the buildings;

26 (c) property used exclusively for agricultural and horticultural societies, for educational purposes, and  
27 for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human  
28 services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department  
29 of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.

30 (d) property that is:

- 1 (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;
- 2 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care
- 3 and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and
- 4 (iii) not maintained and operated for private or corporate profit;
- 5 (e) subject to subsection (2), property that is owned or property that is leased from a federal, state, or
- 6 local governmental entity by institutions of purely public charity if the property is directly used for purely public
- 7 charitable purposes;
- 8 (f) evidence of debt secured by mortgages of record upon real or personal property in the state of
- 9 Montana;
- 10 (g) public museums, art galleries, zoos, and observatories that are not used or held for private or
- 11 corporate profit;
- 12 (h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing
- 13 machines, and wearing apparel of members of the family, used by the owner for personal and domestic
- 14 purposes or for furnishing or equipping the family residence;
- 15 (i) truck canopy covers or toppers and campers;
- 16 (j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;
- 17 (k) motor homes;
- 18 (l) all watercraft;
- 19 (m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or
- 20 nonprofit corporation organized to furnish potable water to its members or customers for uses other than the
- 21 irrigation of agricultural land;
- 22 (n) the right of entry that is a property right reserved in land or received by mesne conveyance
- 23 (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another
- 24 to explore, prospect, or dig for oil, gas, coal, or minerals;
- 25 (o) (i) property that is owned and used by a corporation or association organized and operated
- 26 exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with
- 27 physical or mental impairments that constitute or result in substantial impediments to employment and that is
- 28 not operated for gain or profit; and
- 29 (ii) property that is owned and used by an organization owning and operating facilities that are for the
- 30 care of the retired, aged, or chronically ill and that are not operated for gain or profit;

(p) all farm buildings with a market value of less than \$500 and all agricultural implements and machinery with a market value of less than \$100;

(q) property owned by a nonprofit corporation that is organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and that is not held or used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(r) (i) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:

(A) construct, repair, and maintain improvements to real property; or

(B) repair and maintain machinery, equipment, appliances, or other personal property;

(ii) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that are directly used for space vehicle design, manufacture, launch, repair, and maintenance;

(s) harness, saddlery, and other tack equipment;

(t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105;

(u) timber as defined in 15-44-102;

(v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined in 61-1-114, and travel trailers as defined in 61-1-131;

(w) all vehicles registered under 61-3-456;

(x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors, including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and

(ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection (1)(x)(i);

(y) motorcycles and quadricycles;

(z) the following percentage of the market value of residential property described in 15-6-134(1)(e) and (1)(f):

~~(i) 31% for tax year 2003;~~

- 1       ~~—— (ii) 31.4% for tax year 2004;~~  
 2           ~~(iii)(i)~~ 32% for tax year 2005;  
 3           ~~(iv)(ii)~~ 32.6% for tax year 2006;  
 4           ~~(v)(iii)~~ 33.2% for tax year 2007;  
 5           ~~(vi)(iv)~~ 34% for tax year 2008 and succeeding tax years;  
 6           (aa) the following percentage of the market value of commercial property as described in 15-6-134(1)(g):  
 7           ~~(i) 13% for tax year 2003;~~  
 8       ~~—— (ii) 13.3% for tax year 2004;~~  
 9           ~~(iii)(i)~~ 13.8% for tax year 2005;  
 10          ~~(iv)(ii)~~ 14.2% for tax year 2006;  
 11          ~~(v)(iii)~~ 14.6% for tax year 2007;  
 12          ~~(vi)(iv)~~ 15% for tax year 2008 and succeeding tax years;  
 13          (bb) personal property used by an industrial dairy or an industrial milk processor and dairy livestock used  
 14 by an industrial dairy;  
 15          (cc) items of personal property intended for rent or lease in the ordinary course of business if each item  
 16 of personal property satisfies all of the following:  
 17           (i) the acquired cost of the personal property is less than \$15,000;  
 18           (ii) the personal property is owned by a business whose primary business income is from rental or lease  
 19 of personal property to individuals and no one customer of the business accounts for more than 10% of the total  
 20 rentals or leases during a calendar year; and  
 21           (iii) the lease of the personal property is generally on an hourly, daily, or weekly basis;  
 22          (dd) all manufacturing machinery, fixtures, equipment, and tools used for the production of ethanol from  
 23 grain during the course of the construction of an ethanol manufacturing facility and for 10 years after completion  
 24 of construction of the manufacturing facility;  
 25          (ee) light vehicles as defined in 61-1-139; and  
 26          (ff) the following property, except property included in 15-6-135, 15-6-137, 15-6-141, 15-6-145, ~~and~~  
 27 15-6-156, and [section 1], if the tax rate in 15-6-138 reaches zero:  
 28           (i) all agricultural implements and equipment;  
 29           (ii) all mining machinery, fixtures, equipment, tools, and supplies;  
 30           (iii) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage

1 tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units,  
2 communication towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and  
3 similar equipment that is skidable, portable, or movable, tools, and supplies;

4 (iv) all manufacturing machinery, fixtures, equipment, tools, and supplies;

5 (v) all goods and equipment that are intended for rent or lease;

6 (vi) special mobile equipment as defined in 61-1-104;

7 (vii) furniture, fixtures, and equipment;

8 (viii) x-ray and medical and dental equipment;

9 (ix) citizens' band radios and mobile telephones;

10 (x) radio and television broadcasting and transmitting equipment;

11 (xi) cable television systems;

12 (xii) coal and ore haulers; and

13 (xiii) theater projectors and sound equipment.

14 (2) (a) For the purposes of subsection (1)(e):

15 (i) the term "institutions of purely public charity" includes any organization that meets the following  
16 requirements:

17 (A) The organization offers its charitable goods or services to persons without regard to race, religion,  
18 creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal  
19 Revenue Code, as amended.

20 (B) The organization accomplishes its activities through absolute gratuity or grants. However, the  
21 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public  
22 performances or entertainment or by other similar types of fundraising activities.

23 (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used  
24 by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal  
25 Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually  
26 with the department a copy of its federal tax return reporting any unrelated business taxable income received  
27 by the charity during the tax year, together with a statement indicating whether the exempt property was used  
28 to generate any unrelated business taxable income.

29 (b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and  
30 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold

property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

- (i) actually used by the governmental entity or nonprofit organization as a part of its public display;
- (ii) held for future display; or
- (iii) used to house or store a public display.

(3) For the purposes of subsection (1)(bb):

(a) "industrial dairy" means a large-scale dairy operation with 1,000 or more milking cows and includes the dairy livestock and integral machinery and equipment that the dairy uses to produce milk and milk products solely for export from the state, either directly by the dairy or after the milk or milk product has been further processed by an industrial milk processor. After export, any unprocessed milk must be further processed into other dairy products.

(b) "industrial milk processor" means a facility and integral machinery used solely to process milk into milk products for export from the state.

(4) The following portions of the appraised value of a capital investment in a recognized nonfossil form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

- (a) \$20,000 in the case of a single-family residential dwelling;
- (b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

**Section 9.** Section 15-24-3005, MCA, is amended to read:

**"15-24-3005. Electrical generation facility impact fee for local governmental units and school districts -- clean generation facility impact fee.** (1) (a) If an owner or operator of an electrical generation facility, as defined in 15-24-3001, is exempt from property taxation pursuant to 15-24-3001, the owner or operator of the facility is subject to an initial local government and local school impact fee. In the first 2 years of construction, the impact fee may not exceed 0.75% of the total cost of constructing the electrical generation facility.

(b) In the case of a generation facility powered by oil or gas turbines, the impact fee may not exceed 0.1% of the total construction cost in the remaining 3 years of the tax exemption period as provided in

1 15-24-3001.

2 (c) In the case of any other generation facility, the impact fee may not exceed 0.1% of the total  
3 construction cost in the subsequent 4 years and may not exceed 0.08% of the total construction cost in the  
4 remaining 4 years of the tax exemption period as provided in 15-24-3001.

5 (2) Except as provided in subsection (4), the jurisdictional area of a local governmental unit in which  
6 an electrical generation facility or clean generation facility is located is the local governmental unit that is  
7 authorized to assess the impact fee pursuant to [section 2(1)] or subsection (1) of this section.

8 (3) The impact fee must be distributed to the local governmental unit for local impacts and the impacted  
9 school districts.

10 (4) Subject to the conditions of 15-24-3006 and subsection (5) of this section, if the electrical generation  
11 facility or clean generation facility is located within the jurisdictional areas of multiple local governmental units  
12 of the county or contiguous counties, the local governmental units may enter into an interlocal agreement under  
13 Title 7, chapter 11, part 1, to determine how the fee should be distributed among the various local governmental  
14 units and impacted school districts pursuant to the percentage allocation required in subsection (3). The county  
15 in which the electrical generation facility or clean generation facility is located is authorized to assess the fee  
16 under the interlocal agreement.

17 (5) For purposes of [section 2] and this section, a "local governmental unit" means a county, city, or  
18 town. If an exempt electrical generation facility or clean generation facility is located within a tax increment  
19 financing district, the tax increment financing district is considered a local governmental unit and is entitled to  
20 the distribution of impact fees under this section. A tax increment financing district may not receive a distribution  
21 of impact fees if an exempt electrical generation facility or clean generation facility is not located within the  
22 district.

23 (6) Impact fees imposed under [section 2(2)(b)] or under subsection (4) of this section must be  
24 deposited in the county electrical energy generation impact fee reserve account established in 15-24-3006 for  
25 the county in which the electrical generation facility is located. Money in the account may not be expended until  
26 the multiple local governmental units have entered into an interlocal agreement."

27

28 **Section 10.** Section 15-24-3006, MCA, is amended to read:

29 **"15-24-3006. Electrical energy generation impact fee reserve account.** (1) The governing body of  
30 a county receiving impact fees under 15-24-3005(4) or [section 2(2)(b)] shall establish an electrical energy



1 generation impact fee reserve account to be used to hold the collections. Money held in the account may not  
2 be considered as cash balance for the purpose of reducing mill levies.

3 (2) Money may be expended from the account for any purpose of an interlocal agreement provided for  
4 in 15-24-3005 or [section 2]. The county treasurer shall distribute money in the account to each local  
5 governmental unit according to the terms of the interlocal agreement.

6 (3) Money in the account must be invested as provided by law. Interest and income from the investment  
7 of the electrical energy generation impact fee reserve account must be credited to the account."  
8

9 **Section 11.** Section 15-24-3007, MCA, is amended to read:

10 **"15-24-3007. Electrical generation impact fund.** (1) A local governmental unit, as defined in  
11 15-24-3005, and a school district that receives impact fees pursuant to 15-24-3005(2), ~~or 15-24-3006,~~ or [section  
12 2(2)(a)] shall establish an electrical generation impact fund for the deposit of the fees. A local governmental unit  
13 or school district may retain the money in the fund for any time period considered appropriate by the governing  
14 body of the local governmental unit or school district. Money retained in the fund may not be considered as fund  
15 balance for the purpose of reducing mill levies.

16 (2) Money may be expended from the fund for any purpose allowed by law.

17 (3) Money in the fund must be invested as provided by law. Interest and income earned on the  
18 investment of money in the fund must be credited to the fund.

19 (4) The fund must be financially administered as a nonbudgeted fund by a city, town, or county under  
20 the provisions of Title 7, chapter 6, part 40, or by a school district under the provisions of Title 20, chapter 9, part  
21 5."  
22

23 COORDINATION SECTION. **Section 12. Coordination instruction.** If Senate Bill No. 115 and [this  
24 act] are both passed and approved, then Senate Bill No. 115 is void.  
25

26 NEW SECTION. **Section 13. Codification instruction.** (1) [Section 1] is intended to be codified as  
27 an integral part of Title 15, chapter 6, part 1, and the provisions of Title 15, chapter 6, part 1, apply to [section  
28 1].

29 (2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 24, part 30, and the  
30 provisions of Title 15, chapter 24, part 30, apply to [section 2].

1

2 NEW SECTION. **Section 14. Effective date.** [This act] is effective on passage and approval.

3

4 NEW SECTION. **Section 15. Retroactive applicability.** (1) Except as provided in subsection (2), [this

5 act] applies retroactively, within the meaning of 1-2-109, to property tax years beginning after December 31,

6 2004.

7 (2) [Sections 1, 2, and 9 through 11] apply retroactively, within the meaning of 1-2-109, to clean

8 generation facilities constructed after December 31, ~~2004~~ 2003.

9 - END -